

ARGUMENT AND RELIEF SOUGHT

Argument

The U.S. District Judge engaged in discussions with opposing counsel during court proceedings, while denying an 86 year old mentally incompetent African American woman and her full-time care giver daughter legal protection and legal representation. That conduct is a prohibited practice as stipulated in the Rules of Judicial Conduct for the United States Appeals Court for the District of Columbia, which states under Rule 1 that "Conduct prejudicial to the effective and expeditious administration of the business of the courts" is not a precise term. It includes such things as use of the judge's office obtain special treatment for friends and relatives, acceptance of bribes, improperly engaging in discussions with lawyers or parties to cases in the absence of representatives of opposing parties, and other abuses of judicial office."

Title II of the Americans with Disabilities Act of 1990 (ADA or Act), 104 Stat. 337, 42 U.S.C. § 12131—12165, provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any such entity."

As stipulated in *Tennessee v. Lane*, 541 U.S. 509 (2004), "Congress' chosen remedy for the pattern of exclusion and discrimination described above, Title II's requirement of program accessibility, is congruent and proportional to its object of enforcing the right of access to the courts. The unequal treatment of disabled persons in the administration of judicial services has a long history, and has persisted despite several legislative efforts to remedy the problem of disability discrimination. Faced with considerable evidence of the

shortcomings of previous legislative responses, Congress was justified in concluding that this "difficult and intractable proble[m]" warranted "added prophylactic measures in response." *Nevada Dept of Human Services v. Hibbs*, 538 U.S. 711(2003). The application of non discriminatory access to judicial services in state and local courts also apply to federal courts.

Tennessee v. Lane, 5/1 U.S. 509 (2004) further states that "This duty to accommodate is perfectly consistent with the well-established due process principle that, "within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard" in its courts. *Boddie v. Connecticut*, 401 U.S., 371 (1971)." This same principle applies to opportunity to be heard in federal courts as prescribed in 28 U.S.C. §331. Discrimination in the access to services and review of standards of conduct reinforce the barrier against access to court services at the state and local level.

While some Supreme Court justices do not agree that there is sufficient anecdotal evidence of denial of services that violate due process, Maude and Ellen Dunn advise these justices, it is a difficult mountain to climb to bring this type of credible evidence forward. Maude and Ellen Dunn fought systemic patterns of discrimination by the state of Virginia and the District of Columbia for 9 years. The discrimination was also reinforced by the SSA, OPM, and Bof A, who refused to stop unlawful practices. Ellen Dunn was subjected to threats for seeking an investigation of the fourteenth amendment violations. Most families who are caregivers for disabled relatives have as their number one priority the medical care and quality of life for the disabled individual. It places a tremendous additional burden on families to also fight to bring ADA complaints of due process forward as anecdotal record.

Maude and Ellen Dunn contacted the Civil Rights Commission to file complaints and were referred to state Human

Rights Agencies. Complaints were filed with the Virginia Human Rights Agency and they were dismissed by the agencies. Maude and Ellen Dunn also filed a complaint subsequent to Finally, Maude and Ellen Dunn filed a complaint with the U.S. Department of Justice . Their response states "The circumstances that you describe do not appear to raise an issue that we are able to address. Nor are we aware of any other component of the Department of Justice or other Federal agency that would have authority to handle the matter you have described. They also filed with the Virginia Social Service Agency who advised the DC Social Service Agency to conduct an investigation of the Dunn. Neither of the agencies had or presented certified copies of signed court order by the judge of record. These reporting barriers by state and federal courts and other agencies prevent the proper accumulation of anecdotal information to provide to Congress for presentation the Supreme Court to protect the ADA disabled rights under the 5th and 14th amendments to the U.S. Constitution for due process.

After all of that abuse, Maude Dunn now 86 years old and Ellen Dunn filed a complaint 05-1062 (JR) in federal court based on the *Tennessee v. Lane*, 541 U.S. 509 (2004) ruling. For mitigation purposes, the Dunns contacted SSA, OPM, VA, and DC to terminate discriminatory practices before filing the complaint and they refused. The Dunns' also filed motions shown in App. 17-a and App. 21-a requesting the appointment of a Guardian ad Litem as a reasonable accommodation for Maude Dunn's mental disability and appointment of a Master for both Maude and Ellen Dunn as a reasonable accommodation because, two states, two federal agencies, and a national bank, and federal Direct Deposit Program/ representative payment programs are involved.

Relief Sought

Petitioners, Maude Dunn and Ellen Dunn, plaintiffs in Civil Action No. 05-1062(JR), captioned as Maude Dunn, et al., v. JoAnne Barnhart, Commissioner, Social Security

Administration, et al., respectfully moves this court, pursuant to the provisions of 28 U.S.C. § 1651, to grant a writ of mandamus directing the Honorable Judge Ginsburg, Chief Judge of the United States Court of Appeals of the District of Columbia and Judicial Council to eliminate discriminatory practices in reviewing judicial complaints against ADA plaintiffs by changing the standards of conduct approved by the Judicial Council, Supreme Court, and Congress and reconsider the judicial complaint.

Petitioners, Maude Dunn and Ellen Dunn also move this court to seek the United States Court of Appeals for the District of Columbia Circuit to enforce standard of conduct that review threats and intimidation in a non-discriminatory manner without fear of retaliation.

REASONS FOR GRANTING PETITION

The Judicial Conference shall review rules prescribed under section 2071 of 28 U.S.C. of the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review. The Conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law.

Granting the petition would bring review of judicial standards of conduct into alignment with 28 U.S.C. § 331, which states that "Such changes in and additions to those rules as the Conference may deem desirable to promote simplicity in procedure, fairness in administration, and the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law".

The power of the Court to compel official action by mandatory order is used to enforce nondiscretionary, plainly defined administrative duties. . . .

The standards of conduct do not provide for substituting the clerk, who records the transcript, for the legal representative of unrepresented parties. Supporting this type of standard denies Maude and Ellen Dunn due process and fairness in the future litigation of this case. Maude and Ellen Dunn no not lose their constitutional right to due process in the activities performed by the D.C. Circuit Judicial Council.

CONCLUSION

To maintain the integrity of the federal judicial system, the Court must be concerned whether the parties under the Americans with Disabilities Act receive fair and non-discriminatory treatment of their judicial complaints in federal courts. Congress and the Supreme Court have stated that the disabled are entitled to non-discriminatory access to court services.

There are approximately 50 million individuals with qualifying disabilities and families impacted by discriminatory practices in court services. In the matter presently presented, justice requires that the judicial complaint be reviewed in a non-discriminatory manner and non-retaliatory and non-intimidating manner. "The guiding consideration is that the administration of justice should reasonably appear to be disinterested as well as be so in fact." *Liljeberg*, 486 U.S. 847, at 870 quoting *Public Utilities Comm'n of D.C. v. Pollak*, 343 U.S. 451, 466-467, 72 S.Ct. 813, 822-823, 96 L.Ed. 1068 (1952). The goal is fairness.

Maude and Ellen Dunn unsuccessfully tried to create an appropriate anecdotal record for documentation and consideration by congress to present to the Supreme Court. The additional responsibility to battle reporting barrier and discriminatory barriers at the state and federal judicial level make it almost impossible to fight and change the institutional barriers against the disabled.

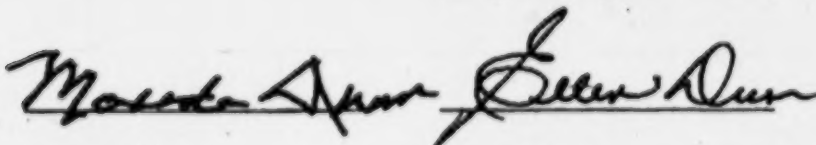
The supporting documentation behind our anecdotal record indicates that the discrimination in due process provisions in both the 5th and 14th amendment to the U.S. Constitution for Title II ADA complainants is multi-dimensional. Maude and Ellen Dunn were exposed to vertical discrimination through the ranks of both state and federal courts in dismissing the cases and refusing to review independent

records. That vertical discrimination was re-enforced with horizontal discrimination by state and federal agencies who failed to follow their statutes who refused to follow their statutes.

Allowing the DC Circuit Judicial Council to change standard of conduct under which Maude and Ellen Dunn were denied requested legal representation during a judicial proceeding violates their 5th amendment right to due process. Denying review without comment on this type of conduct, effectively shuts down the ability to document the issues for proper anecdotal consideration. Consistent with the dissenting opinion in *Tennessee v. Lane*, 541 U.S. 509 (2004), Maude and Ellen Dunn are bringing forward through the line of authority to the Supreme Court a credible anecdote of systemic violations of due process of the 5th and 14th amendment under Title II of the ADA of 1990. Allowing the actions of the Judicial Council to stand would set a different standard of conduct for fairness and non discrimination under Title II of the ADA of 1990 for federal judges versus state judges in matter that impact on 5th and 14th amendment rights under the U.S. Constitution.

The plaintiffs respectfully pray that this court direct the appellate court to take the appropriate action to allow for a non-discriminatory review of their judicial complaint procedures and creation of a non-intimidating environment to allow Maude Dunn and Ellen Dunn to pursue their complaint.

Respectfully submitted,



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APPENDICES

Appendix A(enclosures withdrawn)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

Maude Dunn and Ellen Dunn)
 1323 Webster Street, N.E.)
 Washington, D.C. 20017)
 202-526-6816)

Plaintiff(s))

) Civil Action Number

) 05 1062 JR

) FILE MAY 26 2005

) JURY TRIAL DEMAND

Ms. Jo Anne Barnhart)
 Commissioner)
 Social Security Administration)
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 Suite 152)
 Altmeyer Building)
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Ms. Kay Coles James)
 Director)
 Office of Personnel Management)
 1900 E Street, NW.,)
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Governor Mark R. Warner)
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 Richmond, Virginia 23219)

Mayor Anthony Williams)
 District of Columbia)

John A. Wilson Building)
 1350 Pennsylvania Avenue, NW)
 Washington, DC 20004)
)
 Mr. Kenneth D. Lewis)
 Chairman/CEO)
 Bank of America)
 100 North Tryon Street)
 Charlotte, NC 28255)
)
 Defendant(s))

COMPLAINT

COMES NOW the plaintiff(s), Maude Dunn and Ellen Dunn, appearing Pro Se, and for a complaint against the defendant(s) above named, state and allege as follows:

JURISDICTION

1. This Court has subject matter jurisdiction under 28 U.S.C. §1331, §1343, §1981.
2. This action is commenced pursuant to Title 42 .S.C. §12182 and §1983; Title 12 U.S.C. §3403, §3404, §3405, §3417; Title 18 U.S.C. §241; Title 18 U.S.C. §242; and Title 18, U.S. C. §245, §1031.
3. The federal government has statutes and administrative procedures to protect recipients under guardian or representative payee agreements and to protect mandatory direct deposits to financial institutions. The federal government, District of Columbia, State of Virginia, and Bank of America failed to follow these statutory requirements and continue to violate the constitutional rights of Maude Dunn and Ellen Dunn. Congress and the Supreme Court have established authority under Title II of the Americans with Disabilities Act of 1990 and Supreme Court rulings to provide protection for disabled citizens to have

access to courts and due process. Congress enacted Title II due to pervasive unequal treatment in the administration of state services, including systematic deprivations of fundamental rights as documented in Maude and Ellen Dunn's complaint. Maude Dunn and Ellen Dunn file this complaint to hold the Social Security Administration (SSA), Office of Personnel Management (OPM), District of Columbia, State of Virginia, and Bank of America (BoFA) accountability for discrimination, obstruction of justice, violation of plaintiffs civil rights, and interference in the first amendment, fourth, fifth and fourteenth amendment rights of a mother and daughter. While Virginia has not waived sovereign immunity, the Supreme Court in *Tennessee v. Lane*, 541 U.S. ____ (2004), established that Congress has the right to abrogate Virginia's sovereign immunity to preserve "the well-established due process principle that, "within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard" in its courts. The Supreme Court concludes that Title II, as it applies of classes involving the fundamental right of access to the court, is a valid application of Congress's authority to enforce the guarantee of the Fourteenth amendment. Maude and Ellen Dunn were systematically denied those rights by the defendants.

PARTIES

4. The plaintiffs, Maude Dunn and Ellen Dunn are currently citizens of the District of Columbia, United States of America. They are bringing this action under Title 42 U.S.C. §12182 and §1983; Title 12 U.S.C. §3403, §3404, §3405, §3417; Title 18 U.S.C. §241; Title 18 U.S.C. §242; and Title 18, U.S. C. §245, §1031.

5. The defendants include the federal agencies, Social Security Administration (SSA) and Office of Personnel Management (OPM); State of Virginia (VA); Bank of America(BoFA), the District of Columbia (DC).

STATEMENT OF CLAIMS

6. SSA and OPM violated first and fourteenth amendments to the United States Constitution, (freedom of expression, equal protection, and due process). The SSA and OPM placed Maude Dunn and Ellen Dunn placed under guardianship for receipt of federal recurring payments in violation of Title 20 CFR, Part 404, Subpart U --representative Payment; Title 45CFR, Part 5B, Section 5b.10 -- Parents and guardians, Federal Register/Volume 68, No. 178/Monday, September 15, 2003. without having a certified copy of a signed court order; SSA and OPM failed to use alternative legal administrative procedures for representative payees; SSA and OPM failed to forward to the Justice Department for investigation of Virginia state documents used for the direct deposit of federal recurring payments; and SSA and OPM will not terminate the unlawful guardianship arrangement in issuing federal payments and violations of Maude Dunn Title II Disability rights. OPM and SSA have implemented an unlawful restrictions based on a Certificate/Letter of Qualification signed by a Deputy Clerk (Exhibit A). This document is not a state court order nor is it in the plaintiff's official state court record. Neither copies of these documents, nor certified copies of court orders were provided in response to a FOIA request to the Clerk of the Court. Ellen Dunn and Maude Dunn were the victims of discrimination, fraud and civil rights abuse.

7. Federal agencies did not challenge the legal sufficiency after reports from the recipients and refused after the fraud was exposed to stop the unlawful actions. The federal government has implemented a mandatory federal program that directs control of federal recurring payments to financial institutions without providing legal protection and ensuring the legitimacy of procedures against Maude Dunn. SSA and OPM became conspirators to the civil rights violations by the state of Virginia by refusing to stop the abuse.

8. The state of Virginia violated Maude Dunn's fourteenth amendment right under Title II Disabilities Act, which give her the fundamental right of access to the courts and constitutes a valid exercise of Congress' §5 authority to enforce the guarantees of the Fourteenth Amendment. See Supreme Court ruling. The state also violated Ellen Dunn's right with threats and abuse to protect her mother and expose the abuse of her mother's fundamental rights as a disabled citizen. Maude and Ellen Dunn reported the abuse to Virginia public officials but the state of Virginia continues the abuse and denial of court access to date.

9. That abuse and denial of court access included (1) failure to provide Maude Dunn a lawfully appointed Guardian ad Litem, (2) denial of right to hearing, (3) failure to provide a certified copy of a signed Order of Appointment, (4) Collection of state fees for fraudulent activities, (5) Threats for filing a complaint with the state seeking court access, (5) Abuse by other state agencies, (6) Refusal of public officials to investigate abuses in accordance with state constitution. Maude and Ellen Dunn file a Writ of Mandamus with the Federal Appeals Court. In that writ, Maude and Ellen Dunn reported the obstruction that they had been exposed to in accessing the court pursuant to Virginia Code. A fraudulent dismissal (Exhibit B) was issued in further violation of her right to access the court. The Virginia Appeals court issues ruling one day a week. Records show that there were no rulings issued that day and further no ruling was issued for Maude and Ellen Dunn.

10. Reference should be made to See Supreme Court Ruling, *Tennessee v. Lane*, 541 U.S. _____ (2004), which states "Title II, like Title I, seeks to enforce this prohibition on irrational disability discrimination. But it also seeks to enforce a variety of other basic constitutional guarantees, infringements of which are subject to more searching judicial review. See, e.g., *Dunn v. Blumstein*, 405 U.S. 330, 336—337 (1972); *Shapiro v. Thompson*, 394 U.S. 618, 634 (1969); *Skinner v. Oklahoma ex*

rel. Williamson, 316 U.S. 535, 541 (1942). These rights include some, like the right of access to the courts at issue in this case, that are protected by the Due Process Clause of the Fourteenth Amendment. The Due Process Clause and the Confrontation Clause of the Sixth Amendment, as applied to the States via the Fourteenth Amendment, both guarantee to a criminal defendant such as respondent Lane the "right to be present at all stages of the trial where his absence might frustrate the fairness of the proceedings." *Faretta v. California*, 422 U.S. 806, 819, n. 15 (1975). The Due Process Clause also requires the States to afford certain civil litigants a "meaningful opportunity to be heard" by removing obstacles to their full participation in judicial proceedings. *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971); *M. L. B. v. S. L. J.*, 519 U.S. 102 (1996)."

11. The District of Columbia(DC) violated Maude Dunn and Ellen Dunn's fourth and fourteenth amendment rights to the U.S. Constitution, 42 U.S. C. §1983. They conducted an unreasonable search and investigation of their home with no legal basis. DC violated Maude Dunn and Ellen Dunn's civil rights by accepting a complaint from the state of Virginia without legal authority, refusing to process a complaint reported under the Title II Disabilities Act, conducting an illegally investigation, entering the premises without cause basis, and refusing to properly address the violation. Since Maude Dunn has been an uninterrupted DC tax payer, they had no basis to initiate the investigation from VA without legal authority.

12. Maude Dunn is 85 years old and has been subjected to fraud and abuse since 1997. The federal government could have and should have blocked this fraud by enforcing federal statutes on representative payees. Instead they have been a facilitator in this fraud and abuse. Her family is unable to plan or negotiate her legal affairs as the federal government is supporting fraudulent court orders over lawful durable powers of attorney executed between Maude and Ellen Dunn (Exhibits C and D). This inconsistent standard of legal review among federal

agencies and negligence place millions of federal retirees at risk for abuse. The concern over the abuse of people under representative payee agreement is addressed in a GAO study reported dated July 22, 2004 and presented to the Honorable Larry E. Craig, Chairman, Special Committee on Aging.

13. OPM violated Maude Dunn and Ellen Dunn's first amendment, fifth amendment, and fourteenth amendment rights. OPM in a letter dated February 11, 2005 from the Retirement Operations Center states that "You provided our office with a copy of the court order appointing you as Ms. Dunn legal guardian and we began payments to you on her behalf." That statement is false. Maude Dunn and Ellen Dunn were given a Certificate/Letter of Qualification (C/LQ), which are not court orders. OPM knew in 1997 that C/LQ were not court orders. They are not consistent with the requirements set forth in the Virginia code for a guardianship court order. OPM continues to promote fraudulent documents and facilitated through its gross negligence the horrific abuse of Maude Dunn and Ellen Dunn by refusing to comply with federal statute.

14. SSA violated Maude Dunn and Ellen Dunn's first amendment, fifth amendment, and fourteenth amendment rights. SSA in a letter dated February 22, 2005, refused to discuss or acknowledge the reported fraud based on federal regulations. SSA did not identify the federal statutes under which they are restricting information on fraud. They also did not comply with my FOIA inquiry in accordance with federal statutes to identify the legal basis for review.

15. BofA violated Maude Dunn and Ellen Dunn's first amendment, fifth amendment, and fourteenth amendment rights. Bank of America violated Title 18 Part I Chapter 47 §1005; Title 12 Chapter 35 §3402, 3403, and 3407; Title 18 Part I Chapter 47 §1028; and Title 15 Chapter 41 §1693. BofA established restrictive guardianship accounts without having Virginia state court orders and violated

Maude Dunn's right to privacy in providing information to unauthorized parties, and violated Maude Dunn's Title II Disability rights; BofA failed to investigate fraud in their fiduciary capacity after receiving notice and evidence from Ellen Dunn; BofA violated the confidentiality of financial records for Maude Dunn and Ellen Dunn in releasing check information; Bank of America conspired with others to violate Maude Dunn and Ellen Dunn's constitutional and civil rights; BofA would not close the unlawful restrictive guardian account and re-establish the lawful joint account to protect Maude Dunn and Ellen Dunn's interest; and BofA made no effort to stop or report the abuse by the Virginia attorneys; participated in an illegal procedure to provide copies of checks to others. BofA continues to show depraved indifference to the rights of Maude Dunn under Title II Disabilities Act, a long time account holder, by continuing to deposit checks in an unlawfully restrictive account. Under Direct Deposit-Electronic Funds Transfer recurring payments statutes, BofA failed to uphold their fiduciary responsibility in managing the legal sufficiency of these accounts. BofA provided confidential financial information on Maude Dunn and Ellen Dunn's bank account under Subpoena Duces Tecum (Exhibit E), in violation of USC Title 12 Chapter 35 §3403.

BACKGROUND

16. SSA and OPM participated in and were members of a federal team under the direction of the Federal Reserve and the Treasury Department in implementing the Direct Deposit-Electronic Funds Transfer Program during the 1970s. SSA and OPM knew that the primary motive supporting public service announcement on use of the program was the elimination of fraud and theft and providing security to senior citizens who received these federal recurring payments. Bank of America, the largest state bank in California, at that time was involved with the government in promoting electronic banking and the Direct Deposit Program based on increased service and

compliance with federal statutes. These organizations have violated those mandates.

17. Maude Dunn and Ellen Dunn executed durable powers of attorney in accordance with their first amendment rights to freedom of expression. A group of attorneys and state employees misrepresented and deceived Maude Dunn and Ellen Dunn into needing a guardianship to collect unlawful fee. In the process of being denied lawful access to the court, Maude Dunn was subjected to medical review and treatment that violated the Virginia Code, suffered medical mistreatment and harm, Maude and Ellen Dunn were subjected to unlawful fees, and threats for reporting the abuse to Virginia public officials.

18. Maude and Ellen Dunn reported the violations to Virginia public officials under Title II disability and civil rights violations. The state of Virginia while recognizing that there might not be a guardianship, they failed to investigate the fact that fees had been unlawfully collected. After notifying Virginia public officials and receiving threats (Exhibits F and G), Ellen Dunn was fearful of retaliation against her mother and herself. She was in the process of arranging medical care for vision problems that her mother was experiencing. However, once Ellen Dunn determined that none of the defendants would stop their role in the fraud and civil rights violation, she and her mother decided to seek verification of the certified copies of court order from the court under FOIA. Those official court records should have included: (1) a certified copy of the hearing record; (2) a certified copy of the order appointing the guardian ad Litem with the judge of record's signature; (3) a certified copy of the order of guardianship appointment signed by the judge of record; and (4) a certified copy of the Certificate/Letter of Qualifications; etc. However, none of the documents received from the clerk's office under FOIA were certified as copies of official documents in Maude Dunn's official court records. One uncertified signed order had initials/signature that did not represent the judge of record. None of the records

received from the court included the documents that the defendants are using to continue to restrict access to Maude Dunn and Ellen Dunn's financial accounts.

19. Maude Dunn is an individual that currently suffers from an impairment disability under the organic brain syndrome as prescribed in 28 CFR 36.103. Maude Dunn takes Depakote, Exelon, and Namenda to help control her mental impairment. Ms. Dunn takes Depakote to control agitation that resulted from her improper exposure to the drugs, Aricept and Risperdal, which occurred based on the fraudulent guardianship requirements from 1997 to 2004. SSA, OPM, and BofA knew that the documentations were not legally sufficient and continued to support the unlawful use of these documents. Maude Dunn medical treatment and evaluation was not conducted properly in accordance with the Virginia Code due to the unlawful and fraudulent guardianship process. Maude Dunn's improper medical treatment caused her probable permanent medical harm as reflected in her initial hospitalization (Exhibits H) and subsequent improper use of Risperdal.

20. SSA, OPM and BofA could have prevented and mitigated the abuse in 1997 had they acted responsibly in accordance with Federal statutes when they received the Certificate/Letter of Qualification. In 2000 Ellen Dunn took her mother to a neurological specialist for treatment review and appropriate treatment for her medical condition. Maude Dunn suffers from dementia with lewy bodies, which was properly diagnosed by neurological specialist in memory disorders (Exhibit I). Because of improper treatment and her reliance on Depakote, she is excluded from most studies and has limited opportunities for help. This mistreatment was potentially avoidable had she been given proper treatment initially under lawfully state guidelines or been advised by SSA, OPM, or BofA that there was a problem with the documents presented.

21. Because the Federal government failed to investigate these documents, Maude Dunn and Ellen Dunn: had their rights to privacy violated, were severely abused, were unlawfully charged fees and continue to have restricted access to Maude Dunn's federal recurring payments. The fraud started in or about June 1997 and continues to include social security and civil service payments issued effective May 2005. SSA, OPM, and BofA were intentionally abusive in not validating the legality of documents. The documents did not meet SSA, OPM, or BofA federal statutes. In addition, the documents should have met Virginia Code §37.1-134.14, Court order of appointment; limited guardianships and conservatorships. Once notified by Ellen Dunn of the suspected fraud, SSA, OPM, and BofA failed to investigate or terminate the fiduciary arrangement and engaged in actions that make them co-conspirators to the abuse against Maude and Ellen Dunn in over 100 different payments to date.

22. BofA was involved in the Direct Deposit-Electronic Funds Transfer (DD-EFT) Program from its inception. Treasury representatives worked with BofA officials in their California branch operations, Federal Reserve Bank officials and Senior Citizen facilities to develop and promote the program in protecting senior citizens from fraud based check operations. BofA knew that the goal of DD-EFT was to provide senior citizens a more secure and fraud free payment system. BofA worked with Treasury and other government officials since approximately 1975 to implement the program and improve service to senior citizens.

23. Maude Dunn's sole sources of income are Federal recurring payments; Social Security and Civil Service Retirement and Survivor Annuity. The SSA and OPM authorized direct deposit of federal recurring payment based on non-existent lawful state court orders and BofA continues to deposit payment federal recurring payments into restricted accounts based on non-existent court orders. Maude Dunn and

Ellen Dunn filed complaints with the United States Justice Department based on sovereign immunity claimed by the state of Virginia and the impact of denying court access to disabled citizens. The Justice Department has declined to take any action (Exhibit J). However, congressional studies on the abuse of the disabled supported the passage of Title II to American with Disabilities Act of 1990 and the Supreme Court recent rulings indicate that they believe that disabled citizen deserve protection under due process. Since Maude and Ellen Dunn's abuse and discrimination has been ongoing for nine years, it is an issue of public concern. Maude Dunn has made her daughter aware that most people do not have advocates to fight tirelessly for their right and that this issue should be brought to the attention of the federal courts.

24. The SSA, OPM, and BofA were parties to fraudulent and abusive practices. After Ellen Dunn discovered and reported the fraud, they failed to conduct an investigation. Specifically, SSA failed to take corrective action, which included terminating the fraudulent guardianship designation, issuing an appropriate administrative representative payee designation, and referring the case to the Treasury Department and Justice Department as appropriate. OPM also failed to terminate the fraudulent guardianship designation, and refer to the case to the Treasury Department and Justice Department as appropriate. BofA failed to verify and terminate the fraudulent court order, restore the original accounts, or investigate the confidentiality financial records violations. DC failed to remove the fraudulent record for Maude Dunn and Ellen Dunn.

25. In addition, the Virginia Attorney General's office acknowledged in a letter dated May 20, 2003 that "From your letter, I gather that you are upset that the Clerk of Court, or his Assistant, has certified a document that does not contain the signature of the Judge handling the matter. You are justly concerned. This means, based upon my experience and training, that the clerk is only certifying that this document was filed

among the records of the Court, apparently by Mr. Joseph W. Hood, Jr. Esq. seeking the appointment of the client Sonya Lee Ann Powell, as Guardian. It is of no legal effect until the execution by signature and dating of a judge" (Exhibit K). The Virginia Attorney General's office further states "Perhaps, with a telephone call you might now obtain from Frederick C. Jenke III, Clerk of the Court, Virginia Beach, 757-427-4191, the "final order" of the Court (the Judge) entered in this matter. That would be of legal significance. Or perhaps no Order was entered? Then, there is no Guardian."

26. Formal notice was given to SSA, OPM, and BofA because they had made decisions in violation of Maude and Ellen Dunn's first, fifth, and fourteenth amendment rights and equal protection rights without statutory basis. We were unable to get the state officials to take any action concerning the petition on these federal recurring payments because Virginia has sovereign immunity. However, the Supreme Court has ruled in *Tennessee v. Lane*, 541 U.S. _____ (2004) that all disabled persons under Title II have their rights protected concerning access to the courts. The Federal Government failed to take the appropriate actions and along with BofA refused to stop the fraud and abuse of Maude Dunn and Ellen Dunn. They violated their fiduciary and civil rights responsibility to equal protection.

27. As a result of the continuing fraud and abuse Maude Dunn was subjected to improper and harmful medical treatment, which will adversely impact on her future care. Ellen Dunn was threatened and court officials sought to interfere with the medical care of her mother and place her mother in a dangerous environment. The Federal government and BofA could have intervened and stopped the violations and prevented the abuse of Maude Dunn and Ellen Dunn. Instead they have actively supported the violations to Title II Disabilities act on access to the court and legality of court documents, which resulted in the civil rights violations.

28. Defendants' above-described conduct was extreme, unreasonable and outrageous. By engaging in such conduct, defendants intentionally ignored or recklessly disregarded the foreseeable risk that plaintiffs would suffer extreme medical and emotional distress as a result of defendants' conduct. As a proximate result of said conduct, plaintiffs suffered severe emotional distress, pain and suffering, fear, anxiety, embarrassment, discomfort and humiliation, all to their general damage in an amount to be proven, and incurred special damages in an amount to be proven.

PRAYER FOR RELIEF

Wherefore, Maude Dunn and Ellen Dunn respectfully requests that this Court:

A. Grant a permanent injunction for Maude Dunn and Ellen Dunn to have the SSA to terminate the guardianship designation for her social security (SSA) payments and reissue the payments under the representative payee agreement as specified in Title 20 CFR 404, Subpart U based on information contained in complaint.

B. Grant Maude Dunn and Ellen Dunn's right to have SSA's legal standards of review for state court orders, because they are part of public record. We challenge their right to refuse the information under FOIA.

C. Grant a permanent injunction for Maude Dunn and Ellen Dunn to have OPM terminate the guardianship designation for her retirement and survivor benefit retirement payments and reissue the payments under the representative payee agreement as specified in Federal Register/ Vol. 68, no. 178/Monday, September 15, 2003/ Notices.

D. Grant Maude Dunn and Ellen Dunn's rights to have OPM's legal standards of review for state court orders, because they are part of public record. We challenge their right to refuse us this information requested under FOIA.

E. Grant Maude Dunn and Ellen Dunn a permanent injunction to have BofA terminate the guardianship accounts

for checking and savings accounts and reestablish the joint ownership accounts originally established by Maude Dunn and Ellen Dunn.

F. Maude Dunn and Ellen Dunn seek BofA's legal standards of review for state court orders. BofA is a federal contractor and is subject to Civil Rights Laws. Under Regulation E-Direct Deposit Electronic Funds Transfer, it is an issue of interest to the public.

G. Expunge the unlawful investigation conducted of Maude and Ellen Dunn in the District of Columbia.

H. An award of compensatory and general damages against defendants and each of them, in an amount to be determined according to proof;

I. An award of exemplary and punitive damages against all defendants sued in their individual capacities in an amount to be proven at trial;

J. An award of plaintiffs' costs, expenses, attorney fees, etc.

K. Removal of mandatory use of direct deposit because of the fraud and corruption of government.

L. Trial By Jury; and such other and further relief as the Court may deem just and proper.

Respectfully submitted,
plaintiffs
Exhibits

DATED: 5/26/2005

/S/ Ellen Dunn
Ellen Dunn

16- a

____/S/ Maude Dunn____
Maude Dunn

Governor Mark R. Warner
Executive Office Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

Mayor Anthony Williams
District of Columbia

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Mr. Kenneth D. Lewis
Chairman/CEO
Bank of America
100 North Tryon Street
Charlotte, NC 28255

Defendant(s)

MOTION TO APPOINT GUARDIAN AD LITEM/MASTER

COMES NOW the plaintiff(s), Maude Dunn and Ellen Dunn, appearing Pro Se, and having filed a complaint request the court appoint a Guardian ad Litem for Maude Dunn, currently an incompetent person, to protect her interests and appoint a special master to oversee and represent plaintiff(s) in this complex case.

Pursuant to Federal Rules of Civil Procedure, Rule 17C Infants or Incompetent Persons, Ellen Dunn duly appointed as durable power of attorney request the court appoint a Guardian ad Litem, if Maude Dunn's daughter, full time care-giver, and power of attorney is unacceptable to the court. As discussed in the complaint, the defendants have failed to provide a properly certified copy of a signed Guardianship Appointment Order and the defendant's conduct in this matter violate Title II to the Americans with Disabilities Act in providing access to the court.

Exhibit A and B provide statement from Memory Disorder Neurologist Paul Aison, of the neurological assessment of Maude Dunn's condition and the qualifications of her

daughter, Ellen Dunn, as a caregiver. These exhibits confirm the current status of Maude Dunn's neurological condition. Exhibit C is a medical assessment that was conducted in 1996 and attorney assessment (Exhibit D) in 1997 that is the basis for the Title II Disability Act violations described in the complaint.

The Supreme Court in *Tennessee v. Lane*, 541 U.S. _____ (2004), established that Congress has the right to abrogate Virginia's sovereign immunity to preserve "the well-established due process principle that, "within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard" in its courts. The Supreme Court concludes that the Title II Disabilities Act, as it applies to the class of cases involving the fundamental right of access to the court, is a valid application of Congress's authority to enforce the guarantee of the Fourteenth amendment. Ellen Dunn's primary concern is that her mother's interest be protected by the court and that her mother's issues are heard in the court.

Pursuant to Federal Rules of Civil Procedure Rule 53, Maude Dunn and Ellen Dunn also request the appointment of a Master. Since this case involves two federal agencies, and the District of Columbia, Virginia, and Bank of America (one of nations largest financial institutions); and the most basic right under the fourteenth amendment, "Right to due process" and its application to individuals under Title II to the Americans with Disabilities Act, it is important to appoint a Master. The Master under the appointing order has the authority to regulate proceedings and take all appropriate measures to perform fairly and efficiently the assigned duties.

This case involves both violations by the federal and state government on the same basic issue, the right of the Americans with disabilities to have access to the court. Since Congress initiated Title II of the American with Disabilities Act of 1990 after a Task Force on the Rights and Empowerment of American with Disabilities, From ADA to Empowerment 16(Oct. 12 1990), determined that "individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful

unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in and contribute to society" (42U.S.C §121001(a)(7). and the Supreme Court in *Tennessee v. Lane* , 541 U.S. _____ (2004), established that Congress has the right to abrogate Virginia's sovereign immunity to preserve "the well-established due process principle that, "within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard" that this case warrants the appointment of a Master.

Ellen Dunn's one and only concern is that the Federal court will protect her mother and her mother's interest during this procedure and she prays that they court will honor their motion. Maude Dunn is 85 years old and she seeks to restore her constitutional rights and privileges before her next birthday.

Respectfully submitted,

plaintiffs

DATED: 5/26/2005

Signed by Ellen Dunn

Ellen Dunn

Signed by Maude Dunn

Maude Dunn

Appendix C (enclosure withdrawn)**IN THE UNITED STATES DISTRICT COURT****FOR THE DISTRICT OF COLUMBIA****Maude Dunn and Ellen Dunn****1323 Webster Street, N.E.****Washington, D.C. 20017****Plaintiff(s)**

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) **Civil Action Number:**) **CV-01062-JR**) **MOTION****Ms. Jo Anne Barnhart****Commissioner****Social Security Administration****6401 Security Boulevard****Suite 152****Altmeyer Building****Baltimore, MD 20235****Ms. Kay Coles James****Director****Office of Personnel Management****1900 E Street, NW.,****Washington, DC 20415****Governor Mark R. Warner****Executive Office Building, 3rd Floor****1111 East Broad Street****Richmond, Virginia 23219****Mayor Anthony Williams****District of Columbia**

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John A. Wilson Building)
 1350 Pennsylvania Avenue, NW)
 Washington, DC 20004)

Mr. Kenneth D. Lewis)
 Chairman/CEO)
 Bank of America)
 100 North Tryon Street)
 Charlotte, NC 28255)

Alberto Gonzales)
 U.S. Attorney General)
 950 Pennsylvania Avenue, N.W.)
 Washington, DC 20530)

Kenneth Wainstein)
 U.S. Attorney for the District of Columbia)
 555 4th Street, N.W.)
 Washington, DC 2001)

Defendant(s))

FOLLOW-UP MOTION ON REQUEST TO APPOINT
GUARDIAN AD LITEM/MASTER

COMES NOW the plaintiff(s), Maude Dunn and Ellen Dunn, appearing Pro Se, and having filed a complaint request follow up status by the court concerning the appointment a Guardian ad Litem for Maude Dunn, currently an incompetent person, to protect her interests and appoint a special master to oversee and represent plaintiff in this complex case during the appeal process.

No response was made to our motion dated May 26, 2005 to appoint an Guardian Ad litem and Master. The court conducted a hearing without providing representation to protect Maude Dunn's legal interests in accordance with Federal Rules of Civil Procedure, Rule 17C Infants or Incompetent Persons

and Title II to the Americans with Disabilities Act. We also seek an official copy of the transcript of the hearing held on June 14, 2005; for appeal considerations and other on-going actions. We would appreciate having the contact person to arrange the purchase of the transcript.

Statements were made to the federal judge during the hearing that appear to untrue and put Maude Dunn and Ellen Dunn at risk and influenced your ruling. We fear that Virginia's comments were made in a federal court to intimidate and threaten us. In accordance with Title 18 USC federal reporting requirement we are notifying the court. Based on public documents (Exhibit A) and other evidence, Maude Dunn and Ellen Dunn make a second motion request for a Guardian ad Litem and Master to protect Maude Dunn's legal interest during this process. There is no public record of allegations made by the Virginia legal representative as shown on the enclosure. While this is not absolute the Rules of Evidence indicate that public records may challenge the authenticity of evidence.

The Supreme Court in *Tennessee v. Lane*, 541 U.S. _____ (2004), established that Congress has the right to abrogate Virginia's sovereign immunity to preserve "the well-established due process principle that, "within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard" in its courts. As it applies to the class of cases implicating the fundamental right of access to the courts, the supreme courts states that Title II constitutes a valid exercise of Congress' authority under §5 of the Fourteenth Amendment to enforce that Amendment's substantive guarantees.

We also ask the court again, pursuant to Federal Rules of Civil Procedure Rule 53, Maude Dunn and Ellen Dunn also request the appointment of a Master. The "Right to due process" and its application to individuals under Title II to the Americans with Disabilities Act, it is important to appoint a Master. The

Master under the appointing order has the authority to regulate proceedings and take all appropriate measures to perform fairly and efficiently the assigned duties.

Again the purpose of the Guardian Ad litem and Master is to provide Maude Dunn a meaningful opportunity for her interests to be heard. We ask you to reconsider affording Maude Dunn legal protection. In accordance with the supreme court ruling, Tennessee vs. Lane, the historical experience that Title II reflects is also documented in the decisions of supreme and other courts, which have identified unconstitutional treatment of disabled persons by state agencies in a variety of public programs and services. With respect to the particular services at issue, assignment of a Guardian Ad litem, based on her disability and the complexity of the situation is a reasonable accommodation.

Ellen Dunn's one and only concern is that the Federal court will protect her mother and her mother's interest during this procedure and she prays that they court will honor their motion. Because of Virginia's actions in court, we have also talked to the FBI and are providing them documents to ensure that Maude Dunn's civil rights are no further violated and she is safe. We also note that one of the defendants, District of Columbia or their legal representative, was not present at the hearing.

Respectfully submitted,

Exhibit
plaintiffs

DATED: 6-15-2005

/S/ Ellen Dunn

Ellen Dunn

/s/ Maude Dunn

Maude Dunn

Exhibit

Appendix D(excerpt from public record)**Virginia Courts Case Information**

[Scroll Previous](#) [Scroll Forward](#) [Main Menu](#) [Log Off](#)

Virginia Beach Circuit -- Criminal Division

Click on Case Number for Details

Case Number	Defendant	Charge	Filed	Status
-------------	-----------	--------	-------	--------

CR90002674-02	DUNN,DAV	V.PROBAT.	01-18-96	Concluded
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CR90000783-02	DUNN,EMME	POSSSA.	04-02-90	Nolle Prose
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**Note: No record of Ellen Dunn in the official Virginia Courts
Case information public record.**

Appendix E

U.S. Department of Justice
Civil Rights Division
Disability Rights Section-NYA
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

May 24, 2005

Ellen Dunn
1323 Webster Street, NE
Washington, DC 20017

Dear Ms. Dunn:

The Civil Rights Division has received your correspondence 212382.

The circumstances you describe do not appear to raise an issue that we are able to address. Nor are we aware of any other component of the Department of Justice or other Federal agency that would have authority to handle the matter you have described.

We regret that we are unable to assist you further.

Sincerely,
Barb Bracy
Paralegal Specialist
Disability Rights Section

APPENDIX F**SPECIFIC POWER OF ATTORNEY****KNOW ALL MEN BY THESE PRESENTS:**

That I, Maude O. Dunn, City of Virginia Beach, State of Virginia, have made, constituted, and appointed, and by these presents do make, constitute, and appoint daughter, Ellen Olivia Dunn, of 1315 Glyndon Drive, Virginia Beach, Virginia 23464, my true and lawful attorney, for me in my name, place and stead, to execute and sign any deed, note, contract, bond, or other paper, form or instrument necessary and incident to the sale of the following described property:

Parts of Lots numbered Eighteen (18) and Nineteen (19) in Square Thirty-nine Hundred Seventy-five (39750 in a subdivision made by Martha F. Buckley and Maggie Polwarth, as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber 94 at folio 44, described as follows: beginning at the Northwest corner of said Lot Nineteen (19) and running thence South along the East line of 13th Place, 70 feet to the South line of said Lot 18; thence East along the South line of lot 18, 65 feet; thence North on a line parallel with the East line of 13th Place, 70 feet to the South Line of Webster Street, 65 Street to the place of beginning; now taxed as Lot 818 in Square 3975.

Or any other papers required under the Real Estate Settlement Procedures Act; and to furthermore make any necessary covenants, warranties, and assurances, and do nay and all acts and things necessary and incident to the sale of said property.

This Specific Power of Attorney shall not be terminated by any disability nor shall there be any liability on any person,

firm or corporation relying on this Specific Power of Attorney subsequent to my death provided such person, firm or corporation had not received actual notice of my death.

I hereby ratify and confirm all lawful acts done by my said attorney by virtue hereof.

WITNESS the following signature and seal this 23 day of September. 1996.

Signature of Maude O. Dunn (Seal)
Maude O. Dunn

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit;

The foregoing Specific Power of Attorney was sworn and subscribed to before me this 23rd day of September 1996 by Maude O. Dunn.

Signature of notary public

My Commission Expires: My commission expires September (illegible)

/S/ Signature of Ellen Olivia Dunn

Signature of Ellen Olivia Dunn

For identification

APPENDIX G

GENERAL POWER OF ATTORNEY

I, Maude O. Dunn, of Virginia Beach, Virginia, do hereby make this General Power of Attorney appointing my daughter, Ellen Olivia Dunn, of 1315 Glyndon Drive, Virginia Beach, Virginia, my true and lawful attorney-in-fact. My attorney-in-fact is authorized to act for me in my name, place and stead as follows:

(1) To ask, demand, sue for, recover and receive, of and from all corporations, associations, entities and persons whatsoever (a) each and every piece or parcel of realty and article of personalty which I own or which I am entitled to possess, and (b) each and every sum of money or right due and owing, or that may become due and owing to me and every account, contract or tort, or at my attorney's discretion to arbitrate or compromise for the same, and give discharges;

(2) To sign any bond, deed, obligation, contract, court order, pleading or process, tax return (including the consent required under IRC §2513) or any other paper;

(3) To draw upon any banks or other financial institutions, or any corporation, associations, entities or individuals for any sum or sums of money that may be to my credit, or which I may be entitled to receive;

(4) To borrow money in my name on such terms as my attorney may deem appropriate and to execute and deliver any documents necessary to give any lender a security interest in any or all of my real and/or personal property in connection with any loan;

(5) To sell or lease any part or parts of my real or personal estate, or any interest which I may have in any real or personal estate, wheresoever situated; upon such terms as my attorney may deem appropriate, and to make all necessary deeds and conveyances thereof, with all necessary covenants,

warranties and assurances, and to sign seal, acknowledge and deliver the same:

(6) To make investments on my behalf in accordance with §26-45.1(a) of the Code of Virginia (1950), as amended;

(7) To enter any safe deposit box that I may be the lessee of, or otherwise entitled to enter, in any bank, place or institution;

(8) To borrow against or obtain the cash surrender value of any of life insurance policies, and to transfer the ownership of any such policies to the beneficiary(s) named therein;

(9) To create, and to add to, intervivos trusts for my Benefit;

(10) To make gifts to beneficiaries named in my will by way of total or partial satisfaction of any bequests, legacies or devises made to such beneficiaries in my will as written at the time of such gifts; and

(11) Without limiting the above powers, to do all such other acts, matters and things in relation to all or any part of, or interest in, my property, estate, affairs or business of any kind or description in the State of Virginia, or elsewhere, as I my myself might or could do if acting personally.

This power of attorney shall not terminate on disability of the principal. This power of attorney may be annulled at any time after the execution hereof by an instrument of revocation being recorded in the Clerk's Office of the Circuit Court for the jurisdiction where I reside at the time of the execution of this power, which residence is stated above.

Witness the following signature and seal, this 23rd day of September 1996.

/S/ Maude O. Dunn (SEAL)
Maude O. Dunn

State of Virginia
City of Virginia Beach: To-wit:

The foregoing instrument was acknowledged before me
this 23rd day of September 1996, by Maude O. Dunn.

Signature of Notary Public

My Commission Expires: My Commission expires (unreadable)

APPENDIX H

**VIRGINIA: IN THE VIRGINIA BEACH CIRCUIT COURT
CLERK'S OFFICE**

CERTIFICATE/LETTER OF QUALIFICATION

I, the duly qualified clerk/deputy clerk of this Court, CERTIFY
that on February 13, 1997

ELLEN OLIVIA DUNN

Duly qualified in this Office under applicable provision of law
as Guardian of the Person and of the Estate of

MAUDE O. DUNN, INCAPACITED

Bond \$40,000.00 without surety- none required by court order

The powers of the fiduciary named above continue in full force
and effect

DATE: February 13, 1997

CURTIS FRUIT, CLERK

By: Signature of Deputy Clerk
Deputy Clerk

APPENDIX I

Judicial Council for the District of Columbia Circuit Complaint of Judicial Misconduct or Disability

Mail this form to: Clerk, United States Court of Appeals for the
District of Columbia Circuit
United States Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001-2866

Mark envelope "Complaint of Misconduct" or "Complaint of Disability." Do not

Put the name of the judge or magistrate on the envelope.

See Rule 2 for the number of copies required.

1. Complainant's Name: Maude and Ellen

Dunn

Address: 1323 Webster Street, N. E.

Washington, D.C. 20017

Daytime telephone: (202) 526-6816

2. Judge or Magistrate complained about:

Name: James Robertson

Court: United States District Court of the District of Columbia

3. Does this complaint concern the behavior of the judge or magistrate in a

Particular lawsuit or lawsuits?

Yes

No

If "yes" give the following information about each lawsuit (use reverse side if there is more than one.):

Court: United States Court of the District of Columbia

Docket number: 1:05-cv-1062

Are (were) you a party or lawyer in the lawsuit?

Party Lawyer Neither

If a party, give the following information:

Lawyer's Name: N/A pro
sc

Address: _____

Telephone: () _____

Docket number(s) on any appeals of above case(s) to the District of Columbia Circuit Court of Appeals: _____

4. Have you filed any lawsuit against the judge or magistrate?

Yes

No

If "yes" give the following information about each lawsuit (use the reverse side if there is more than one):

Court: _____

Docket Number: _____

Present status of suit: _____

Your Lawyer's Name: _____

Address: _____

Telephone: () _____

Court to which any appeal has been taken: _____

Docket number of the appeal: _____

Present status of the appeal: _____

5. The statute which governs the procedure for these complaints generally provides for confidentiality until such time as the complaint is finally processed.

6. On separate sheets of paper, not larger than the paper this form is printed on, describe the conduct or the evidence of disability that is the subject of this complaint. See rule 2(b) and rule 2 (d). Do not use more than 5 pages (5 sides). Most companies do not require that much.
7. You should either: (1) check the first box below and sign this form in the presence of a notary public, or (2) check the second box and sign the form. You do not need a notary public if you check the second box.
 - () I swear (affirm) that—
 - () I declare under penalty of perjury that —
 - (1) I have read rules 1 and 2 of the Rules of the D.C. Circuit Governing Complaints of Judicial Misconduct or Disability, and
 - (2) The statements made in this complaint are true and correct to the best of my knowledge.

(Signature) Ellen Dunn

Executed on _____
(Date)

(Signature) Ellen Dunn for Maude Dunn

Executed on _____
(Date)

Sworn and subscribed

To before me _____
(Date)

(Notary Public)

My commission expires:

Page 3 (Judicial Complaint) Attachment

6. Judge Robertson used his office to improperly engage in discussions with lawyers for Bank of America, Justice Department, and the Virginia Governor's office while denying Maude Dunn and Ellen Dunn legal representation. Maude Dunn, an 85 year old African American, who is mentally disabled under Title II to the Americans with Disabilities Act, came into federal court physically assisted by her children, Ellen

and Tom Dunn. She personally came into United States District Court of the District of Columbia court on June 14, 2005 and appeared before Judge Robertson to participate in a preliminary hearing on a complaint in which she is co-plaintiff with her daughter. In the filed complaint and motions received but not filed, Maude Dunn identifies herself as a Title II Disabled American based on mental impairment and sought legal assistance based on disability, abuse, and threats against she and her daughter.

Instead of the preliminary hearing specified in the order Judge Robertson engaged in an informal discussion with the aforementioned attorneys in violation of the congressional mandate, which prohibits discrimination in public services under Title II ADA, and a Supreme Court ruling by refusing to appoint a guardian ad litem and/or special master as needed based on the complaint or as requested by Maude Dunn. In a one-to-two hour informal preliminary hearing the judge indicated that a guardian ad litem would not be a benefit to Maude Dunn and she did not need one; he did not acknowledge that Maude Dunn had any individual rights, and told us to stop blaming the state for the abuse and discrimination which were identified in the complaint.

He allowed the attorneys for the Virginia to accuse Ellen Dunn of being a criminal without providing any corroboration or documentation during the informal hearing. The judge refused to consider anything Ellen Dunn said disputing the Virginia attorney's accusations. The judge continued to berate Ellen Dunn and promoted the same conduct against the Dunns by Bank of America, Justice Department, and the Virginia Governor's attorneys. The judge and attorney for the Virginia governor directed Ellen Dunn and Maude Dunn to return to Virginia even though their complaint included evidence of threats. The judge told Maude and Ellen Dunn that he was doing them a favor sending them back to Virginia. The judge created an abusive and threatening environment against the plaintiffs to deter them from processing the complaint. The judge improperly sought information from the Dunns about their

personal affairs during the discussion with the defendants' attorneys while continuing to deny Maude and Ellen Dunn legal representation during the informal discussion.

Because of the threats in the complaint and judge's action, the Dunns contacted the FBI for help. The judge made Maude and Ellen Dunn fearful for their personal safety by Virginia state officials. The FBI advised us that the judge had control over actions in his courts, but that we should file threats, fraud, and abuse by state officials with the local FBI, which we did. Since the court did not file motions received from the Dunns and the judge entered an undated, unsigned, un-filed dismissal in court records, we are unable to file an appeal and have been forced to file a Writ of Mandamus requesting the Appellate and/or Supreme Court

Page 4 Judicial Complaint (Attachment)

to request enforcement of Maude Dunn's rights to court services under Title II to ADA in both the state and federal court. We are also filing this complaint about his prejudicial conduct. Judge Robertson's conduct demonstrates how entrenched discrimination in courts and court services are in the judicial system for the disabled. The judge was determined during the informal hearing to intimidate Ellen Dunn and Maude Dunn into not pursuing their complaint. His conduct reflects how the discrimination has moved from the states to federal district court. The federal judge has defied a congressional mandate under Title II and supreme court ruling *Tennessee v. Lane* of 2004 and denied Maude Dunn access to court services based on her disability and sought to intimidate Ellen Dunn and Maude Dunn, which violates their rights under the Civil Rights Act. Maude Dunn and Ellen Dunn feel powerless to move forward and process this complaint without intervention, as also observed by the Supreme Court in the discrimination of the disabled.

APPENDIX J
The Judicial Council
FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of Judicial Council Complaint No. 05-18

**A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY**

NOTICE

**To: Maude and Ellen Dunn
1323 Webster Street, N.E.
Washington, D.C. 20017**

You are hereby notified that by order entered August 12, 2005, a copy of which is enclosed, and for the reasons stated therein, the Chief Judge of the District of Columbia Circuit has dismissed the complaint filed herein.

If you wish to file a petition with the Judicial Council of this Circuit for review of this order, you may do so in accordance with Rule 6 of the Rules of the Judicial Council of the District of Columbia Circuit Governing Complaints of Judicial Misconduct or Disability. Such a petition must be received in the Office of the Clerk of the Court of the U.S. Court of Appeals for the D.C. Circuit within 30 days of the date of this notice.

**/Signature/
Mark J. Langer, Clerk
U.S. Court of Appeals for
The D.C. Circuit**

Date: August 12, 2005

Enclosure

**The Judicial Council
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

In the Matter of Judicial Council Complaint No. 05-18

**A Charge of Judicial
Misconduct or Disability**

Before: Ginsburg, Chief Judge of the Circuit

ORDER

Upon consideration of the complaint herein and the supplement thereto, filed against a judge of the United States District Court for the District of Columbia pursuant to the Judicial Council's Reform and Judicial Conduct and Disability Act of 1980 and the Rules of the Judicial Council for the District of Columbia Circuit Governing Complaints of Judicial Misconduct or Disability, it is

ORDERED, for the reasons stated in the attached Memorandum, that the complaint be dismissed. See 28 U.S.C. §352(b)(1)(A)(ii) and (iii).

The Clerk is directed to send copies of this Order and accompanying Memorandum to complainant, the subject judge, and the Chief Judge of the United States District Court. See 28 U.S.C. §352(b); D.C. Cir. JUD. MISCONDUCT R.4(f)(1).

**/S/ Signature
Douglass H. Ginsburg, Chief Judge
District of Columbia Circuit**

Date: August 12, 2005

MEMORANDUM

Complainants allege that a United States District Court Judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. More specifically, complainants allege that the subject judge improperly engaged in informal discussions with complainants. Complainants also assert that the subject judge created an abusive and threatening environment deterring complainants from pursuing their complaint and failed to file motions filed by complainants. Complainants' allegations, however, do not provide any grounds for actions against the subject judge.

First, the allegation that the subject judge engaged in improper informal discussions with complainants' opposing counsel is without merit. The subject judge presided over a motion hearing which complainants, counsel for the defendants, and a court reporter attended. Other than simply stating that this hearing was somehow improper, complainants' allegations is unsupported by any specific evidence to demonstrate any wrong-doing on the part of the subject judge. Similarly, complainants failed to provide any specific evidence to demonstrate how the subject judge created an abusive and threatening environment. In addition, a review of the District Court docket reflects that all of complainants' pleadings were filed with the court. Accordingly, the allegations lack sufficient evidence to raise an inference that misconduct has occurred and thus must be dismissed under 28 U.S.C. §352(b)(1)(A)(iii). Cf. *Complaint of Doe*, 2F. 3d 308, 311 (8th Cir. Jud. Council 1993)(dismissing as frivolous unsupported allegations of bias and conspiracy).

Second, complainants' challenge to the subject judge's refusal to appoint a guardian ad litem for one of the complainants is clearly an attempt to challenge the substance of the subject judge's order denying that request. Complainants

appropriate avenue to obtain relief, therefore, is not a judicial misconduct proceeding. See 28 U.S.C. §352(b)(1)(A)(ii) (providing for dismissal of a complaint that is "directly related to the merits of a decision or procedural ruling"); D.C. CIR. JUD. MISCONDUCT R. 1(e) ("The complaint procedure is not intended to provide a means of obtaining review of a judge's decision or ruling in a case"). The proper avenue to seek review of the merits of a decision is through a notice of appeal.

Accordingly, because the complaint raises allegations not appropriate for consideration before this court, the complaint must be dismissed.¹

¹Pursuant to 28 U.S.C. § 352© and D.C. Cir. JUD. MISCONDUCT R. 5. complainant may file a petition for review by the Judicial Council for the District of Columbia Circuit. Any petition must be filed in the Office of the Clerk of the Court of Appeals within 30 days of the date of the clerk's letter transmitting the dismissal Order and this Memorandum. Id. R6(a)

APPENDIX K(enclosures withdrawn)

1323 Webster Street, N.E.
Washington, DC 20017
August 17, 2005

Mr. Mark J. Langer
Clerk
United States Court of Appeals
District of Columbia Circuit
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001-2866

Subject: Judicial Complaint No. 05-18

Dear Mr. Langer:

Maude and Ellen Dunn hereby petition the judicial council for review of the chief judge's order dated August 12, 2005. Rule 1 (b) under What may be complained about stipulates that, "improperly engaging in discussions with lawyers or parties to cases in the absence of representatives of opposing parties". Rule 1 rule does not stipulate: what type of discussions; whether the discussions are formal or informal; or whether a clerk is present. Under Rule 1, the purpose of this complaint process is the correction of conditions that interfere with proper administration of justice in the courts. Maude Dunn, an 86 year old mentally incompetent African-American, under the Americans with Disabilities Act (ADA) and her daughter, Ellen Dunn, sought access to legal services. They requested legal protection and representation prior to the judge conducting discussions with opposition counsel and prior to his issuing a ruling.

The judge's August 12, 2005 ruling indicates that Maude Dunn and Ellen Dunn made "an attempt to challenge the

substance of the judge's order denying that request." A comparison of the docket record (Enclosure A) with the documents filed in the court record will show that this is not correct. A review of the motion (Enclosure B) received June 17, 2005 by Judge Robertson, shows that the court was directed to enter the motion into the record on July 12, 2005 rather than June 17, 2005. The received date on the docket sheet for this motion in Enclosure B has been entered as July 12, 2005 rather than the actual received date acknowledged by the court of June 16, 2005. These date alterations make it appear that the Judge's unsigned order filed June 20 was issued before the second motion for legal representation was filed and that our motion is about a ruling rather than judicial conduct. However, a review of Enclosure B indicates that the Judge Robertson received the second motion June 17, 2005, which is three days before he issued his undated/unsigned order filed June 20, 2005. These errors show that Maude Dunn and Ellen Dunn sought legal representation before he engaged in discussions with opposing counsel and issued any ruling. The date changes make it appear that Maude Dunn and Ellen Dunn were trying to complain about a ruling.

No other motions filed with this case were formally reviewed by the judge before being entered in the court record. Copies of all other motions are included as:

Enclosure C, date filed 05/26/2005: Motion to Appoint Guardian ad Litem/Master

Enclosure D, date filed 05/26/2005: Motion for Temporary Restraining Order

Enclosure E, date filed 06/09/2005: Motion to Correct Record

These motions are not treated in the same manner as the Maude Dunn and Ellen Dunn second request for legal representation received by the court on 06/16/2005.

Enclosure E, Motion to Correct Record and the complaint filed 05/26/2005, Exhibit G, supports issue of threatening conduct. Because of the continuing threat, efforts

were made to report these actions to the state. However, a dismissal notice provided as Exhibit B of the filed complaint is not entered in the public record. There is no evidence or information entered in the record to dispute the threats or support the unsigned/ undated statement by the judge.

The issues presented are (1) whether the judge discriminated against a 86 year old African-American mentally disabled ADA plaintiff by denying court services and engaging in discussions with opposing counsel while denying the disabled plaintiff requested legal assistance, and (2) whether the judge created a hostile and threatening environment for both Maude and Ellen Dunn during a legal proceeding in a federal court.

Maude and Ellen Dunn respectfully request reconsideration be made based on the documents provided and review conducted.

Enclosure

Respectfully Yours,

Ellen Dunn

APPENDIX L

**The Judicial Council
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

In the Matter of Judicial Council Complaint No. 05-18

**A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY**

NOTICE

**TO: Maude and Ellen Dunn
1323 Webster Street, N.E.
Washington, DC 20017**

You are hereby notified that by order entered September 9, 2005, (copy enclosed) the Judicial Council of the District of Columbia Circuit has denied complainant's petition for reviewed. This order is final and is not reviewable.

**Mark Langer, Clerk
U.S. Court of Appeals for
The D. C. Circuit**

Date: September 9, 2005

APPENDIX M

**The Judicial Council
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

In the Matter of Judicial Council Complaint No. 05-18

**A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY**

**BEFORE: Chief Judge Ginsburg*, Sentelle, Henderson,
Randolph, Rogers, Tatel, Garland, Circuit Judges, Chief Judge
Hogan, Sullivan, Robinson*, Kennedy, Roberts, Hurvelle and
Walton District Judges.**

By order dated August 12, 2005 Chief Judge Ginsburg dismissed a complaint filed against a U.S. District Court judge pursuant to 28 U.S.C. §352(b)(1)(A)(ii) and (iii). Thereafter, the complainant filed a petition addressed to the Judicial Council seeking review of the order of dismissal. Upon consideration thereof, it is

ORDERED, by the Judicial Council, that complainant's petition for revision for review is denied.

**For the Council
Signature
Mark J. Langer
Clerk**

***Chief Judge Ginsburg and Judge Robertson did not participate in the instant order.**

Filed: September 9, 2005

APPENDIX N(no enclosure included in letter)

**Kenneth V. Geroe
Attorney and Counsellor at Law
Virginia Beach, Virginia**

July 21, 2003

**Ellen Olivia Dunn
1323 Webster Street, N.E.
Washington D.C. 20017**

**Ellen Olivia Dunn
1315 Glyndon Drive
Virginia Beach, VA 23464**

Re: Guardianship of Maude O. Dunn

Dear Ms. Dunn:

Please permit me to make this as simple for you as I can. What both the Court and myself desire is that you completely and timely account for the funds under your control belonging to your mother. Nobody wants you to be in trouble. You create that for yourself by your refusal to account, as Virginia law requires you to do.

Let's cut through all of the smoke screen. You are the validly appointed Guardian for your mother , as the attached copy of the Court's Order shows. If you will do what you are supposed to do, then you won't have to worry about show cause hearings and the like. Provided I receive all updated accountings in proper form, by September 1, 2003, the show cause matter will be dismissed. Otherwise, your failure to

cooperate could result in your removal as guardian which will create further complications with this matter.

Just send to me the overdue accounting and, if all is in order, I will try to help make the show petition go away.

Very truly yours,

Kenneth v. Geroe
Commissioner of Accounts

APPENDIX O

Kenneth V. Geroe
Attorney and Counsellor at Law
Virginia Beach, Virginia

December 8, 2003

Ellen Olivia Dunn
1323 Webster Street, N.E.
Washington, D.C. 20017

Re: Guardianship of Maude O. Dunn

Dear Ms. Dunn:

Pursuant to the show cause hearing of November 21, 2003, of which you were aware and chose not to be present, the Court, upon its own Motion, issued a Capias for your arrest. I suggest. That it might make it easier on you by just turning yourself in.

Very truly yours,
/s/ Kenneth V. Geroe
Kenneth V. Geroe
Commissioner of Accounts

APPENDIX P

Office of the Attorney General
Richmond 23219

May 20, 2003

Ellen O. Dunn
1323 Webster Street, N.E.
Washington, D.C. 20017

Re: Dunn inquiry concerning Guardian for Maude O.

Dunn

Dear Ms. Dunn

I am receipt of your letter dated April 19, 2003, concerning documents filed in the Circuit Court of the city of Virginia Beach, particularly a draft Order for the appointment of a Guardian for Maude O. Dunn. I am writing you as senior assistant to Attorney General Kilgore in the Civil Litigation Division of the Office.

The Attorney General appreciates the concern that led you to bring this matter to our attention.

Please understand that this Office functions primarily as the law firm for state government. In this capacity it advises state officials and represents the various state agencies and departments. State law, conflict of interest rules and other policy considerations prevents the Attorney General from offering legal advice or representation to private individuals or corporations.

The matter you address is before the Circuit Court in Virginia Beach. You might consider seeking a lawyer in the private section to help you to help with this inquiry.

From your letter, I gather that you are upset that the Clerk of the Court, or his Assistant, has certified a document that does not contain the signature of the Judge handling the matter. You are justly concerned. This means, based upon my experience and training that the Clerk is only certifying that this document was filed among the records of the court apparently by Mr. Joseph Hood, Jr. Esq. seeking the appointment of the client Sonya Lee Ann Powell as Guardian. It is of no legal effect until the execution by signature and dating of a Judge. It is the equivalent of request, without any indication that such request has been granted. Perhaps with a phone call you might now obtain from Frederick C. Jenke III, Clerk of the Court, Virginia Beach, 757/427/4191, the "final order" of the Court (the Judge) entered in this matter. That would be of legal significance. Or perhaps no Order was entered? Then, there is no Guardian.

In closing, thank you again for writing. I hope this Information will be helpful to you.

Very truly yours,
/S/ Sydney E. Rab
Sydney E. Rab
Sr. Assistant Attorney General

